

REMARKS

Claims 1-28 remain in the application and claims 1 and 18 have been amended hereby.

Reconsideration is respectfully requested of the rejection of claims 1-28 under 35 USC 101, as being directed to non-statutory subject matter.

It is respectfully submitted that amended independent claims 1 and 18 are clearly directed to statutory subject matter because they recite an apparatus having a plurality of interrelated elements.

It is well settled that, if a claim defines a useful machine by identifying the physical structure of the machine in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., Lowry, 32 USPQ2d at 1034-1035; Warmerdam, 31 USPQ2d at 1760.

Further, in most cases, a claim to a specific machine will have a practical application in the technological arts. See, In re Alappat, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994); State Street, 47 USPQ2d 1596, 1601 (Fed. Cir. 1998).

Furthermore, the guidelines set forth in MPEP Sec. 2106 state that only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 USC 101. Clearly claims 1 and 18 recite several limitations having practical applications in the technological arts.

Moreover, independent claims 1 and 18 have been amended to recite the apparatus being connected to an electronic

communication network, as suggested in the Office Action at paragraph 1.

Accordingly, it is respectfully submitted that amended independent claims 1 and 18, and the claims depending therefrom, recite statutory subject matter.

Reconsideration is respectfully requested of the rejection of claims 1-28 under 35 USC 103(a), as being unpatentable over Hendricks et al.

Features of the apparatus according to the present invention are a decision unit or controller for checking whether the sent data is data corresponding to a new content and storing the sent data in a memory based on the results of the checking. See steps S9-10 in Fig. 5 of the present application, for example.

The above-noted features of the present invention accomplish the object of providing a system for automatically recording only new content such as newly released songs.

As recited in amended independent claims 1 and 18, a sending receiving unit checks whether received data is data corresponding to the new content.

An advantage of the above-noted features of the present invention is that by checking whether the received data is new content, and storing in memory only the new content, the limited size of the memory can be used effectively.

Amended independent claims 1 and 18 recite the above-noted features of the present invention.

It is respectfully submitted that Hendricks et al. fails

to show or suggest a decision unit for checking whether the sent data is data corresponding to a new content and storing the sent data in a memory based on the results of the checking. Hendricks et al. is merely providing a user with short video clips on a split screen to choose from after "grazing" through the video clips. See col. 20, lines 30-39 of Hendricks et al.

Nowhere in Hendricks et al. is shown or suggested the ability to sort and store only new data from all the received data by deciding whether the received data corresponds to a new content. The cable headend of Hendricks et al. (208 in Fig. 1) is merely a signal processor for preparing the program signal for transmission to a set top terminal, and a network controller for managing the configuration of the set top terminal. See Fig. 3 (items 209 and 214), and col. 9, lines 7-10 and 31-35 of Hendricks et al., for example.


Accordingly, it is respectfully submitted that amended independent claims 1 and 18, and the claims depending therefrom, are patentably distinct over Hendricks et al.

Entry of this amendment is earnestly solicited, and it is respectfully submitted that the amendments made to the claims hereby raise no new issues requiring further consideration and/or search, because all of the features of this invention have clearly been considered by the examiner in the prosecution of this application and because the present amendments serve only to further define and emphasize the novel features of this invention.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

COOPER & DUNHAM LLP


Jay H. Maioli
Reg. No. 27, 213

JHM/PCF:pmc